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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,385	02/23/2004	Daniel Seguin	7326	8425

7590 05/26/2005

Attn: Maurice E. Gauthier  
Gauthier & Connors, LLP  
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EXAMINER

DUNWOODY, AARON M

ART UNIT PAPER NUMBER

3679

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/784,385

Applicant(s)

SEGUIN ET AL.

Examiner

Aaron M Dunwoody

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 6-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/28/2005.

### ***Priority***

No priority claimed.

### ***Information Disclosure Statement***

No information Disclosure Statement submitted.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the stabilizing member projects axially from the distal end of said nose by a distance at least about 0.5 times the minimum diameter of the axial passageway in said resilient retainer.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 4257268, Pepicelli et al in view of US patent 6117394, Smith.

In regards to claim 1, Pipicelli et al disclose a mounting fixture for connecting pipettes of various sizes to the air channel of a pipettor, the fixture comprising a tubular nose (240) having a proximate end secured to the pipettor and an open distal end; and a resilient retainer (242) lining the interior of the nose, the retainer having an axial passageway communicating at its entry and exit openings respectively with the open distal end of the nose and with the air channel of the pipettor, the passageway being tapered from a maximum diameter at the entry opening to a minimum diameter at the exit opening, the entry opening being sized to axially receive the largest of the pipettes and the sleeve being internally configured to resiliently grip differently sized pipettes inserted therein at different locations along the length thereof. Pepicelli does not disclose a stabilizing member at the open distal end of the nose. Smith teaches a stabilizing member (Tp) at the open distal end of the nose (P) to limit the possibility of cross contamination between samples (col. 1, lines 8-13). As Smith relates to disposable tips for pipette devices, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a stabilizing member at the

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open distal end of the nose to limit the possibility of cross contamination between samples, as taught by Smith.

In regards to claim 2, Smith further discloses the stabilizing member comprising a tubular sleeve projecting axially from the distal end of the nose.

In regards to claim 3, Smith further discloses the stabilizing member being rigid, and being detachably secured to the distal end of the nose, and having an inner diameter smaller than that of the entry opening of the resilient retainer.

In regards to claim 4, Smith further discloses the stabilizing member being snap fitted into the open distal end of the tubular nose.

In regards to claim 5, Pepicelli et al in view of Smith disclose the claimed invention except for the stabilizing member projecting axially from the distal end of the nose by a distance at least about 0.5 times the minimum diameter of the axial passageway in the resilient retainer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the stabilizing member projecting axially from the distal end of the nose by a distance at least about 0.5 times the minimum diameter of the axial passageway in the resilient retainer, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Conclusion***

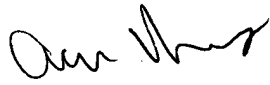
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure because it illustrates the inventive concept of the invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Aaron M Dunwoody  
Primary Examiner  
Art Unit 3679

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